



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/031,357

01/17/2002

Lars Winther

3276.1002000

6915

21005

7590

12/16/2003

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

EXAMINER

VAN, QUANG T

ART UNIT

PAPER NUMBER

3742

DATE MAILED: 12/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/031,357

Applicant(s)

WINTHER ET AL.

Examiner

Quang T Van

Art Unit

3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 36-56 and 69-74 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 55 and 56 is/are allowed.
- 6) ☒ Claim(s) 36,37,39-43,46-54 and 69-74 is/are rejected.
- 7) ☒ Claim(s) 38,44 and 45 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5&6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Election/Restrictions

1. Applicant's election without traverse of Group I (claims 36-56 and 69-74) in Paper No. 8 is acknowledged.

Specification

2. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

Claim Objections

3. Claims 36-54 and 69-74 are objected to because of the following informalities: claims 36 and 69 are objected to because the claims are being claimed in alternative form for different species (figures 1-5) in an incomplete form, which does not read completely on any figure. For example, claim 36, line 2, the term "said specimen being fixed to a carrier (only read on figures 1-2 and 5) or said specimen being in liquid form in contact with a carrier onto which capture probes for capturing said specimen are fixed (only read on figure 4), and said carrier being removably placed in, on, or under said support member (read on all figures), said support member includes a cartridge for a carrier (read on figures 1-2, but not figures 3-4) or a cover plate for a carrier (read on figure 5, but not figures 3-4) and comprising a conducting material, said conducting material is in contact with a layer of heat conducting material (read on figures 1-2 and 5), which said heat conducting material is in contact with the specimen (not read on figure 1-2 and 5, but on figure 4". The claim has been alternately described mixing from one figure to another and there is no completed figure has been claimed in claim 36 (also see claim 69). Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 36-37, 39, 41-42, 46-54, 69-74 are rejected under 35 U.S.C. 102(b) as being anticipated by Jameson et al (US 5,653,885). Jameson discloses a specimen (2176, figure 21) being in liquid form in contact with a carrier (2172) onto which capture probes (1920) for capturing said specimen are fixed and comprising the step of subjecting said solid support to an oscillating magnetic field (1918). With regard to claim 50, it is inherent that an alternative power supply provide a frequency range 20 to 200 kHz and alternative current would delivered through said coil a power up to about 100 W.

6. Claims 36-37, 39-43, 46-47 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 09170972A cited by applicant. JP 09170972A discloses a specimen-sampling equipment for analysis comprising a specimen (10) fixed to a carrier (4A) and said carrier being removably placed in said support member, said support member includes a cover plate (4B) for a carrier and comprising the step of subjecting said solid support to an oscillating magnetic field (2).

7. Claims 55-56 are allowed.

Art Unit: 3742

8. Claims 38, 44-45 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Leeb et al (US 5,643,246) discloses a system for remotely inducing a phase transition in a gel.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang T Van whose telephone number is 703-306-9162. The examiner can normally be reached on 8:00Am 7:00Pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg can be reached on 703-308-2634. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-

0861.



QV
December 11, 2003



Quang T Van
Primary Examiner
Art Unit 3742